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SENATE BILL 444

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Shannon Robinson

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO WATER; ENACTING THE WATER EFFICIENT TECHNOLOGY ACT;
IMPOSING WATER EFFICIENCY FEES FOR THE DIVERSION OR WITHDRAWAL
OF PUBLIC WATERS OF THE STATE; CREATING A FUND; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
through 5 of this act may be cited as the "Water Efficient
Technology Act".

Section 2. [NEW MATERIAL] DEFINITIONS. -- As used in the
Water Efficient Technology Act:

A. "domestic well" means a well permitted pursuant
to Section 72-12-1.1 NMSA 1978;

B. "person" means any individual or legal entity;
and

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1 C. "public water supply system" means a system that
2 supplies water to the public and that has at least fifteen
3 service connections or regularly services an average of twenty-
4 five individuals at least sixty days per year.

5 Section 3. [NEW MATERIAL] WATER EFFICIENCY FEES--
6 IMPOSITION-- EXCEPTIONS. --

7 A. In order to exercise the right to use the public
8 waters of the state, the following water efficiency fees are
9 imposed on the following persons for diverting or withdrawing
10 the public waters of the state:

11 (1) persons operating a public water supply
12 system, twenty-five dollars (\$25.00) per acre-foot per year
13 paid annually;

14 (2) persons supplying water for a commercial,
15 industrial, mining or power production concern and for which
16 the fees imposed by this subsection have not otherwise been
17 imposed or paid, twenty-five dollars (\$25.00) per acre-foot per
18 year paid annually; and

19 (3) persons owning a domestic well, a fixed
20 annual fee of twelve dollars fifty cents (\$12.50) per well paid
21 annually.

22 B. With the exception of domestic wells that are
23 assessed a fixed annual fee, water efficiency fees shall be
24 based on the actual diversion or withdrawal of water if
25 measured by a metering system approved by the state engineer;

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1 otherwise, fees shall be based on the amount of the permitted,
2 licensed, declared or adjudicated water right.

3 Section 4. [NEW MATERIAL] PAYMENT OF WATER EFFICIENCY
4 FEES-- EVIDENCE OF WATER RIGHT. --Payment of water efficiency
5 fees imposed by the Water Efficient Technology Act neither
6 confirms nor is evidence of any right to appropriate the public
7 waters of the state.

8 Section 5. [NEW MATERIAL] OTHER WATER EFFICIENCY FEES--
9 COLLECTION-- INFORMATION. --

10 A. The taxation and revenue department shall
11 provide by regulation for reporting requirements and the manner
12 and form of collection of the water efficiency fees imposed by
13 the Water Efficient Technology Act.

14 B. The taxation and revenue department shall
15 provide the state engineer and the New Mexico finance authority
16 with an annual report on the amount of fees collected by river
17 basin for each type of fee specified in the Water Efficient
18 Technology Act.

19 C. The state engineer, interstate stream
20 commission, department of environment and public regulation
21 commission shall provide the taxation and revenue department
22 with the information and records necessary to assess the fees
23 imposed by the Water Efficient Technology Act that will be
24 collected by the taxation and revenue department.

25 D. A person who measures the diversion or

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1 withdrawal of public waters of the state with a metering system
2 approved by the state engineer and who is required to pay fees
3 imposed under the Water Efficient Technology Act shall submit
4 to the state engineer an annual record of the amount of
5 diversion.

6 Section 6. A new section of the New Mexico Finance
7 Authority Act is enacted to read:

8 "[NEW MATERIAL] WATER EFFICIENT TECHNOLOGY PROJECT FUND--
9 CREATION-- PURPOSE-- ADMINISTRATION. --

10 A. The "water efficient technology project fund" is
11 created in the New Mexico finance authority and shall consist
12 of distributions of the net receipts attributable to the fees
13 imposed by the Water Efficient Technology Act, payments of
14 principal of and interest on loans for approved water projects
15 and net proceeds from the sale of bonds. The fund shall also
16 consist of any other money appropriated, donated, distributed
17 or otherwise allocated to the fund for the purpose of
18 supporting water projects pursuant to provisions of the Water
19 Efficient Technology Act. The fund shall be administered by
20 the authority in accordance with the Water Efficient Technology
21 Act and the New Mexico Finance Authority Act. Income from
22 investment of the water efficient technology fund shall be
23 credited to the fund. Balances in the fund at the end of any
24 fiscal year shall not revert or be transferred to any other
25 fund. The water efficient technology fund may consist of such

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1 subaccounts as the authority deems necessary to carry out the
2 purposes of the fund.

3 B. Money in the water efficient technology fund is
4 appropriated to the authority for the purpose of making grants
5 or loans to qualified entities for qualifying water projects
6 that benefit persons that have paid water efficiency fees and
7 to pay administrative costs of the water efficient technology
8 project grant and loan program. Qualifying water projects
9 means:

- 10 (1) restoration and management of watersheds;
11 (2) state acquisition or lease of water rights
12 from willing sellers or lessors for public use and benefit,
13 including, but not limited to, interstate water compact
14 deliveries; recreation projects; fish and wildlife resources
15 and habitat; and river ecosystem rehabilitation; or
16 (3) water conservation projects, including,
17 but not limited to, metering and measurement of water use;
18 water reclamation, aquifer storage and recovery; detecting and
19 reducing the amount of unaccounted-for water; and regional or
20 clustered water systems.

21 C. The authority may issue revenue bonds payable
22 from the proceeds of loan repayments made into the water
23 efficient technology fund upon a determination by the authority
24 that issuance of the bonds is necessary to replenish the
25 principal balance of the fund. The net proceeds from the sale

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1 of the bonds shall be deposited in the water efficient
2 technology fund. The bonds shall be authorized and issued by
3 the authority in accordance with the provisions of the New
4 Mexico Finance Authority Act. "

5 Section 7. A new section of the New Mexico Finance
6 Authority Act is enacted to read:

7 "[NEW MATERIAL] WATER EFFICIENT TECHNOLOGY FUND
8 ADMINISTRATION-- DUTIES OF AUTHORITY. --The New Mexico finance
9 authority shall:

10 A. develop application procedures and forms for
11 qualified entities to apply for grants and loans from the water
12 efficient technology project fund;

13 B. adopt rules and procedures as required to
14 administer the fund;

15 C. adopt rules and procedures for evaluating and
16 prioritizing qualifying water projects based on the short- and
17 long-term benefits and impacts of the project; the financial
18 capability of the qualified entity; and the equitable
19 distribution of water efficient technology project grants and
20 loans across the state's river basins as measured by the amount
21 of water efficiency fees collected from and expended within
22 each river basin;

23 D. make funding recommendations to the legislature;
24 and

25 E. make loans or grants to qualified entities for

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1 projects that qualify for funding pursuant to the Water
2 Efficient Technology Act and are authorized by the
3 legislature. "

4 Section 8. A new section of the Tax Administration Act is
5 enacted to read:

6 "[NEW MATERIAL] ADMINISTRATIVE FEE IMPOSED. -- The
7 department shall withhold an administrative fee equal to the
8 actual cost of collection or of five percent of the receipts
9 collected pursuant to the Water Efficient Technology Act,
10 whichever is less. "

11 Section 9. A new section of the Tax Administration Act is
12 enacted to read:

13 "[NEW MATERIAL] DISTRIBUTIONS-- WATER EFFICIENCY FEES. --
14 Distributions pursuant to Section 7-1-6.1 NMSA 1978 shall be
15 made to the water efficient technology project fund of all net
16 receipts attributable to the fees imposed pursuant to the Water
17 Efficient Technology Act. "

18 Section 10. Section 7-1-2 NMSA 1978 (being Laws 1965,
19 Chapter 248, Section 2, as amended) is amended to read:

20 "7-1-2. APPLICABILITY. -- The Tax Administration Act
21 applies to and governs:

22 A. the administration and enforcement of the
23 following taxes or tax acts as they now exist or may hereafter
24 be amended:

- 25 (1) Income Tax Act;

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- 1 (2) Withholding Tax Act;
- 2 (3) Venture Capital Investment Act;
- 3 (4) Gross Receipts and Compensating Tax Act
- 4 and any state gross receipts tax;
- 5 (5) Liquor Excise Tax Act;
- 6 (6) Local Liquor Excise Tax Act;
- 7 (7) any municipal local option gross receipts
- 8 tax;
- 9 (8) any county local option gross receipts
- 10 tax;
- 11 (9) Special Fuels Supplier Tax Act;
- 12 (10) Gasoline Tax Act;
- 13 (11) petroleum products loading fee, which fee
- 14 shall be considered a tax for the purpose of the Tax
- 15 Administration Act;
- 16 (12) Alternative Fuel Tax Act;
- 17 (13) Cigarette Tax Act;
- 18 (14) Estate Tax Act;
- 19 (15) Railroad Car Company Tax Act;
- 20 (16) Investment Credit Act, Capital Equipment
- 21 Tax Credit Act, rural job tax credit, Laboratory Partnership
- 22 with Small Business Tax Credit Act and Technology Jobs Tax
- 23 Credit Act;
- 24 (17) Corporate Income and Franchise Tax Act;
- 25 (18) Uniform Division of Income for Tax

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1 Purposes Act;
2 (19) Multistate Tax Compact;
3 (20) Tobacco Products Tax Act;
4 (21) the telecommunications relay service
5 surcharge imposed by Section 63-9F-11 NMSA 1978, which
6 surcharge shall be considered a tax for the purposes of the Tax
7 Administration Act; and
8 (22) the daily bed surcharge imposed on
9 licensed nursing homes, intermediate care facilities for the
10 mentally retarded and residential treatment centers, which
11 surcharge shall be considered a tax for purposes of the Tax
12 Administration Act until June 30, 2007;
13 B. the administration and enforcement of the
14 following taxes, surtaxes, advanced payments or tax acts as
15 they now exist or may hereafter be amended:
16 (1) Resources Excise Tax Act;
17 (2) Severance Tax Act;
18 (3) any severance surtax;
19 (4) Oil and Gas Severance Tax Act;
20 (5) Oil and Gas Conservation Tax Act;
21 (6) Oil and Gas Emergency School Tax Act;
22 (7) Oil and Gas Ad Valorem Production Tax Act;
23 (8) Natural Gas Processors Tax Act;
24 (9) Oil and Gas Production Equipment Ad
25 Valorem Tax Act;

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1 (10) Copper Production Ad Valorem Tax Act;

2 (11) any advance payment required to be made
3 by any act specified in this subsection, which advance payment
4 shall be considered a tax for the purposes of the Tax

5 Administration Act;

6 (12) Enhanced Oil Recovery Act;

7 (13) Natural Gas and Crude Oil Production
8 Incentive Act; and

9 (14) intergovernmental production tax credit
10 and intergovernmental production equipment tax credit;

11 C. the administration and enforcement of the
12 following taxes, surcharges, fees or acts as they now exist or
13 may hereafter be amended:

14 (1) Weight Distance Tax Act;

15 (2) the workers' compensation fee authorized
16 by Section 52-5-19 NMSA 1978, which fee shall be considered a
17 tax for purposes of the Tax Administration Act;

18 (3) Uniform Unclaimed Property Act (1995);

19 (4) 911 emergency surcharge and the network
20 and database surcharge, which surcharges shall be considered
21 taxes for purposes of the Tax Administration Act;

22 (5) the solid waste assessment fee authorized
23 by the Solid Waste Act, which fee shall be considered a tax for
24 purposes of the Tax Administration Act;

25 (6) the water conservation fee imposed by

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1 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
2 for the purposes of the Tax Administration Act; ~~and~~

3 (7) the gaming tax imposed pursuant to the
4 Gaming Control Act; and

5 (8) the water efficiency fees imposed pursuant
6 to the Water Efficient Technology Act, which fees shall be
7 considered a tax for the purposes of the Tax Administration
8 Act; and

9 D. the administration and enforcement of all other
10 laws, with respect to which the department is charged with
11 responsibilities pursuant to the Tax Administration Act, but
12 only to the extent that the other laws do not conflict with the
13 Tax Administration Act. "